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Wildfires and Hurricanes Indemnity Program (WHIP)

The U.S. Department of Agriculture (USDA) administers a suite of programs that assists farmers and ranchers with recovering from a natural disaster. Most of these programs are permanently authorized and receive funding from mandatory sources. In recent years, Congress has supplemented these programs with additional assistance, often referred to as ad hoc assistance. In 2018, USDA created the Wildfires and Hurricanes Indemnity Program (WHIP) to implement the bulk of this ad hoc assistance.

USDA has implemented two versions of WHIP along with multiple subprograms and block grants to states. This In Focus provides an overview of WHIP and its components. For an overview of all USDA disaster assistance programs, see CRS Report RS21212, *Agricultural Disaster Assistance*.

Supplemental Appropriation Timeline

Following an active hurricane and wildfire season in 2017, the Bipartisan Budget Act of 2018 (BBA 2018, P.L. 115-123) authorized \$2.36 billion for agricultural production losses. The BBA 2018 funding is limited to crop, tree, bush, and vine losses from a wildfire or hurricane occurring in 2017. USDA announced that the bulk of the BBA 2018 funding would be applied to the creation of a new supplemental program—WHIP (referred to as *2017 WHIP*). USDA also used \$340 million for a block grant to the State of Florida to assist the citrus industry.

Additional production loss occurred in 2018 and 2019 following prolonged flooding, hurricanes, wildfires, and other natural disasters across the country. Congress authorized over \$3 billion in supplemental funding to cover these losses in P.L. 116-20 (FY2019 supplemental). USDA announced the majority of the FY2019 supplemental appropriation funding as an expanded version of WHIP, referred to as *WHIP+*. The FY2019 supplemental also required payments for additional losses not previously covered, including crops that were prevented from being planted in 2019, on-farm stored commodities, and milk losses. The FY2019 supplemental appropriation authorized, and USDA made available, block grants to select states to cover livestock, poultry, and forestry losses.

Pursuant to BBA 2018, funding for 2017 WHIP expired on December 31, 2019. Prior to its expiration, approximately 60% of funds were unobligated. On December 20, 2019, the FY2020 Further Consolidated Appropriation Act (P.L. 116-94, Division B, §791) repurposed \$1.5 billion of those funds to WHIP+, expanded eligibility, and added program requirements.

2017 WHIP

The 2017 WHIP program made payments to farmers and ranchers with crop, tree, bush, and vine losses from a wildfire or hurricane occurring in 2017. Payments to

producers varied depending on whether they had purchased policies under the federal crop insurance program (crop insurance) or the Noninsured Crop Disaster Assistance Program (NAP). These subsidized crop insurance policies indemnify yield, revenue, or margin losses on more than 100 eligible crops. NAP offers a minimum level of coverage for reduced yields and losses on crops not eligible for crop insurance. For full eligibility, both crop insurance and NAP must be purchased prior to a natural disaster. Under 2017 WHIP, producers who purchased a crop insurance or a NAP policy could receive payments for 70%-95% of the expected value of the crop depending on the level of coverage purchased. For producers who did not purchase a policy in advance of the natural disaster, payments were limited to 65% of expected value of the crop. All payments were reduced by the value of the crop harvested, if any, and any insurance indemnity paid through crop insurance or NAP. All participants were required to purchase crop insurance or NAP for the next two crop years.

Payments under 2017 WHIP were limited to \$125,000 per person or legal entity if less than 75% of the participant's adjusted gross income (AGI) was from farming. If more than 75% of the participant's AGI was from farming, then payments were limited to a maximum of \$900,000 per person or legal entity.

WHIP+

USDA implemented the FY2019 supplemental as WHIP+, similar to 2017 WHIP. The FY2019 supplemental appropriation expanded covered losses for crops, trees, bushes, and vines in 2018 and 2019 as well as eligible natural disasters, including Hurricanes Michael or Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires. The FY2020 appropriation further expanded WHIP+ to include reduced crop quality and losses from drought and excessive moisture.

Payments for WHIP+ are based on several factors, including (1) the expected value of the crop, (2) the level of insurance or NAP coverage, (3) a WHIP+ payment factor, (4) the value of the crop harvested, and (5) insurance payments received. Payment calculations vary based on the level of production loss; market value of crop loss; and physical tree, bush, and vine loss or damage. Producers who purchased crop insurance or NAP are eligible for payments of 75%-95% of the expected value of the crop depending on the level of coverage purchased. Payments for producers who did not purchase a crop insurance or NAP policy are limited to 70% of the expected value of the crop. Similar to 2017 WHIP, all WHIP+ participants are required to purchase crop insurance or NAP for the next two crop years.

Also similar to 2017 WHIP, payment limits for WHIP+ are based on an individual's or entity's average AGI and how much of that income is from farming. Generally, payments are limited to \$125,000 per person or legal entity. However, unlike 2017 WHIP, if more than 75% of the participant's AGI is from farming, then payments are limited to \$250,000 for each crop year with an overall payment limit of \$500,000 for all crop years.

State Block Grants

Both the BBA 2018 and the FY2019 supplemental appropriation provided USDA with the flexibility to provide assistance through block grants to states. Block grants provide funding to states through agreements negotiated with USDA. The states, in turn, use the funding in accordance with the agreement to assist producers with qualifying losses not covered by other USDA disaster programs. One block grant was issued under 2017 WHIP to the State of Florida to assist the citrus industry with the cost of buying and planting replacement trees—including resetting and grove rehabilitation—and for repairing damage to irrigation systems, among other activities.

Under WHIP+, USDA announced over \$800 million for block grants to Alabama, Florida, and Georgia for losses of timber, cattle, and poultry as well as necessary expenses related to losses of horticulture crops and pecan production.

The FY2020 appropriation requires that USDA provide an additional \$400 million of the repurposed funds for WHIP+ through block grants with states.

Other Covered Losses

The FY2019 supplemental and FY2020 appropriation specifically names eligible production loss types following natural disasters. USDA administers these provisions through separate payments and programs.

On-Farm Storage Loss Program (OFSLP)

OFSLP provides payments for the uncompensated losses of harvested commodities including grains, oilseeds, and hay stored in on-farm structures. Only losses related to eligible disaster events that occurred during 2018 or 2019 may receive payments. Payments are calculated using a national payment rate per commodity based on 75% of the market or harvest price.

Milk Loss

The milk loss program provides indemnity payments to eligible dairy operators for milk that was dumped or removed without compensation from the commercial milk market due to qualifying natural disasters. In some cases, dairy operations receive a partial payment for milk that was dumped through a marketing organization, insurance, or other source. Only the compensated portion of milk is eligible for the milk loss payment.

Prevented Planting

Crops in 2019 that were either prevented from being planted or delayed in being planted were provided with a *top-up* payment. The payment was automatically made to producers who claimed *prevent plant losses* (PPL) in 2019 through their federal crop insurance policies. Payments varied based on the type of crop insurance policy

purchased, and payments ranged from 10% to 15% of the PPL indemnity received. Producers who received a top-up payment are required to purchase crop insurance for the next two crop years, similar to WHIP+ requirements.

Sugar Beets

The FY2020 appropriation requires that all WHIP+ sugar beet losses in 2018 and 2019 be paid through cooperative processors. Cooperatives enter into agreements with USDA to administer assistance to their members. Sugar beet producers who are not members of a cooperative processor may apply for WHIP+ through USDA's Farm Service Agency.

Issues for Congress

The U.S. farm policy mix that provides assistance to agricultural producers for damage and loss following natural disasters has evolved to include both permanent and ad hoc support. Over the past 20 years, Congress has authorized permanent disaster assistance programs and expanded federally subsidized crop insurance and NAP policies to reduce the need for ad hoc disaster assistance. Following enactment of the 2008 farm bill (P.L. 110-246), Congress appropriated little in the way of supplemental disaster assistance for agriculture for several years. This changed in 2018 with enactment of the BBA 2018 and the creation of 2017 WHIP. With the resurgence in ad hoc assistance, Congress might reassess the effectiveness of the permanent disaster assistance programs as well as NAP and crop insurance coverage. Also, by covering the losses of farmers who chose not to purchase insurance, Congress may consider whether WHIP and other ad hoc assistance creates a potential disincentive for future participation in crop insurance or NAP.

Historically, assistance for production losses has been provided directly from the USDA to eligible farmers and ranchers. Block grants to states amounting to \$1 billion through WHIP deviate from the traditional federal agricultural production support framework. Congress may appraise whether these grants are more or less effective in assisting producers. Block grants may allow USDA to leverage federal funds in light of recent staffing shortages. However, some states have reported implementation delays, grant agreement complexities, and difficult agreement negotiations with USDA that may be of interest to Congress.

While authorizing language identified specific crops and livestock, disaster events, and percentage of payment values, Congress left to USDA other decisions on implementing \$5.4 billion of assistance. USDA used this discretion to implement WHIP consistent with certain elements of other farm programs. For example, USDA imposed payment limits similar to some farm commodity support programs (e.g., Agriculture Risk Coverage and Price Loss Coverage programs). However, USDA also added exceptions for WHIP, such as the higher payment limit if more than 75% of income is derived from farming, and it excluded the AGI means test. As Congress evaluates implementation of WHIP, USDA's use of its administrative discretion may be an area of interest.

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